

Act No. 235

## JUSTICES (PAPER COMMITTALS) AMENDMENT BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The District Court (Judges) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Justices Act 1902—

- (a) to make the paper committal system mandatory;
- (b) to restrict the defendant's right in paper committal proceedings to call the victims of sexual assaults or certain other offences involving violence to give oral evidence;
- (c) to expressly authorise a court to terminate unnecessary examinations or cross-examinations in committal proceedings;
- (d) to enable committal proceedings to proceed if the defendant absconds before, as well as during, a listed hearing; and
- (e) to make other minor or ancillary amendments.

Under the paper committal system, the evidence of witnesses for the prosecution in committal proceedings is given by means of written statements that have been served on the defendant beforehand. At present the system is not mandatory and, if used, the defendant has the right to call a prosecution witness for oral examination.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedules of amendments.

Clause 4 ensures that the proposed Act does not affect pending proceedings.

*Justices (Paper Committals) Amendment 1987*

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SCHEDULE 1—AMENDMENTS RELATING TO PAPER COMMITTALS

Schedule 1 (1) makes the use of the paper committal system mandatory. Exceptions are made, in particular, to allow the evidence of the prosecution witnesses to be given orally if a copy of the written statement of the witness could not reasonably be served on the defendant or if it is additional evidence.

Schedule 1 (2) (a) is consequential on the amendment made by Schedule 1 (4).

Schedule 1 (2) (b) and (3) restrict the defendant's right in paper committal proceedings to call and cross-examine the victims of sexual assault and certain other offences involving violence. The victim will not be obliged to attend the proceedings to give evidence and be cross-examined unless the court determines that there are special reasons why the victim should attend.

Schedule 1 (4) imposes time limits on the court when it gives directions for the service of written statements of prosecution witnesses on the defendant or for the service of requests by the defendant for the attendance of those witnesses at the committal proceedings. The court retains its discretion to allow the matter to proceed even though service was not effected within the required time.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS

Schedule 2 (1) (a)–(d) allow committal proceedings to proceed if the defendant absconds before, as well as during, a listed hearing.

Schedule 2 (1) (e) expressly authorises the court to terminate unnecessary examinations or cross-examinations in committal proceedings.

Schedule 2 (2) allows the Attorney General to give a direction, as to the appropriate place for a District Court appeal from a decision of a Magistrate, generally instead of only after a particular appeal has been lodged.

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